

## Supplements - Case #: 12-22852 : Supplement

## AFFIDAVIT OF PROBABLE CAUSE

CASE NUMBER: 12-22852

I, Ryan Winters, believe that on or about the 18 day of October, 2012 at 1644 hundred hours at 1916 Waggoner Ave, in the City of Evansville, County of Vanderburgh, State of Indiana, the defendant, Bobbie Jean Cunningham, did commit the crime(s) of:

CT I Escape	CF	IC CODE: 35-44-3-5
CT II Battery-Law Enf	AM	IC CODE: 35-42-2-1
CT III Criminal Recklessness	BM	IC CODE: 35-42-2-2
CT IV Criminal Recklessness	BM	IC CODE: 35-42-2-2
CT V Disorderly conduct	BM	IC CODE: 35-45-1-3
CT VI Resist law enforcement	AM	IC CODE: 35-44.1-3
CT VII Refusal to aid an officer	BM	IC CODE: 35-44-3-7
CT VIII Dog bite liability	DI	IC CODE: 15-20-1-4
CT VIII Harboring a non immunized dog	CI	IC CODE: 35-46-3-1

The undersigned, being a law enforcement officer with the Evansville Police Department, and being duly sworn upon his/her oath, states that the below information constitutes probable cause for the above crimes, incorporated herein is also any attached sheets which are made a part of this sworn affidavit:

I was sitting in my marked police car on Waggoner just west of Weinbach working a traffic accident. While sitting in my car I could hear a dog growling and barking and a man yelling for help. I then heard the male, later identified as Quintin Friday, yell " get the cop". I got out of my car and saw a gray pit pull dog growling and barking and it charged at Friday who was standing in his own front yard. Friday kicked and swatted at the dog to get it away and to keep it from biting him. I ran over and he yelled at me to do something that the dog was going to bite him. I then saw a white female, later identified as Bobbie Cunningham, yelling and walking around with a can of dog food in her hand. Her yelling was causing several people to come out of their houses to see what was going on placing them in harms way of the dog as well.

I asked Cunningham if the pit bull was her dog. She said yes. I then asked her to help me and to get her dog and put it back inside her house. She then said no and told me to make sure the trash stays off her property. I asked her again to get the dog and put it inside her house and she still said no. The dog continued to run around and charge at Friday, I yelled at Friday and told him to get inside in which he did. The dog came within a few feet of me in an aggressive manner but did not get close enough to bite me. During this time I had my duty weapon out for my safety and the safety of others. The dog then charged at Charles Eubank who was standing in his yard across the street. The dog ran up to him and got within inches and was aggressively barking and growling. Eubank also swatted at the dog to get away and the dog backed off. I called for assistance around this time.

I continued to tell the female several more times to get the dog and put it inside her house in which she refused. She was walking around the street and was not trying to call the dog or get the dog in any kind of way. I then told her to put the dog up now or I may have to shoot it. She then grabbed my arm and said " have some" and tried to throw the can of dog food on me. I told her she was under arrest and holstered my weapon. I grabbed her left arm and went to place handcuffs on her. She kept pulling back and kept trying to throw the can of dog food on me. I was able to get her left hand in cuffs when I saw the pit bull charge at me growling in an aggressive manner. I let go of Cunningham and reached for my duty weapon. By the time I got it out of my holster the dog was within a few inches of my leg. I pointed my weapon down and fired one shot into the dog. The dog yelped and backed off about a foot and then it charged at me again. I fired one more shot striking the dog again. The dog then ran up onto the porch of the house.

I tried to get a hold of Cunningham again but she ran up on the porch with the dog. I told her to come to me several times and she

refused. She then let the dog back inside the house. Officers D. Smith and W. Shirley arrived at this time. Once the dog was inside she stayed on the porch we walked up to place her under arrest again. She then went inside the house and tried to shut the front door on us so that we could not get to her. We then kicked the door as she was shutting it and forced it open.

Officer Shirley grabbed Cunningham and tried to place her in custody. She then started to fight with Shirley and was refusing to put her hands behind her back. We tried to force her hands behind her back and escort her outside which she continued to fight with us. I then deployed my electronic control device to place her in custody. She continued to fight with us. We were able to eventually get her out of the house and place her in custody.

Animal control was on scene and took control of the injured dog. The dog is not believed to be updated on its shots. They transported it to the emergency vet clinic. She was transported to Deaconess Hospital for evaluation and then transported her to the VCCC where she was booked in under the above charges.

Your affiant believes that any person who supplied the above information to your affiant speaks from personal knowledge and observation and are reliable and credible inasmuch as they volunteered information to your affiant in the course of your affiant's investigation as a law enforcement officer. Your affiant believes there is a factual basis for the above information as your affiant's personal observation corroborated said information.

I affirm under the penalties of perjury that the foregoing representations are true to the best of my knowledge.

Affiant: Ryan Winters \_\_\_\_\_ 2x1324 Date: 10-18-2012

#### COURT DETERMINATION OF PROBABLE CAUSE

CASE NUMBER: {12-22852}

The Court having examined the above Affidavit of Probable Cause hereby finds that there is not Probable Cause to order the defendant bound over and the defendant is to be released forthwith, and any bond posted by the defendant herein to be released.

JUDGE: \_\_\_\_\_

The Court having examined the above Affidavit of Probable Cause hereby finds that there is Probable Cause to establish that the defendant committed the offense(s) of { \_\_\_\_\_ }  
this { \_\_\_\_\_ } day of { \_\_\_\_\_ } 20 { \_\_\_\_\_ }, and the defendant is ordered held in the Vanderburgh County Jail until the { \_\_\_\_\_ }  
day of { \_\_\_\_\_ }, 20 { \_\_\_\_\_ }, at { \_\_\_\_\_ }  
o'clock { \_\_\_\_\_ } M by which time the State of Indiana is to file formal charges herein, and the defendant's bond is set in the amount of  
{ \$ \_\_\_\_\_ }, defendant is ordered to appear for the initial hearing on the { \_\_\_\_\_ } day of { \_\_\_\_\_ }, 20 { \_\_\_\_\_ }, at { \_\_\_\_\_ }  
o'clock { \_\_\_\_\_ } M.

JUDGE: { \_\_\_\_\_ }